



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

**MEMORANDUM**

**TO:** The Commission

**FROM:** Thomasenia P. Duncan  
General Counsel

Ann Marie Terzaken  
Associate General Counsel for Enforcement

**BY:** Sid Rocke *SR*  
Assistant General Counsel

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Attorney

**SUBJECT:** MUR 5996 (Education Finance Reform Group/Tim Bee) –  
Rescind Vote on Recommendation #2 in FGCR (48-Hour Tally)

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On October 20, 2009, the Commission approved, by a vote of 5-0, the Office of General Counsel's no reason to believe and dismissal recommendations in the First General Counsel's Report (FGCR) in this matter. It also approved Factual and Legal Analyses that the Commissioners' offices had revised and circulated on October 19.

Recommendation #2 in the FGCR, that the Commission find no reason to believe that Education Finance Reform Group (EFRG) violated the Act by republishing campaign materials, was based on an analysis under 11 C.F.R. § 109.23, the stand alone (non-coordinated) republication provision. This issue was addressed in the FGCR because it flowed from the analysis of whether the coordinated communication republication content standard was satisfied by EFRG's use of a candidate photo its television ad. Because the Commission chose not to address the Section 109.23 issue in the Factual and Legal Analyses, and since it was not specifically alleged in the complaint, the vote on Recommendation #2 should be rescinded. Accordingly we recommend that the Commission reopen the file, rescind its vote on Recommendation #2 in the FGCR dated June 16, 2009, and close the file in this matter.

**RECOMMENDATIONS:**

1. Re-open the file in MUR 5996.
2. Rescind the Commission's vote on Recommendation #2 of the First General Counsel's Report, finding no reason to believe that Education Finance Reform Group violated 2 U.S.C. § 441a(f) or 441b by making an excessive or prohibited contribution to Tim Bee for Congress and David Katsel, in his official capacity as treasurer, in the form of republished campaign material.
3. Close the file in this matter.

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